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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 WAYMO LLC,

Case No. 3:17-cv-00939-WHA

19 Plaintiff,

20 v.
21 UBER TECHNOLOGIES, INC.,
OTTOMOTTO LLC; OTTO TRUCKING LLC,
22 Defendants.
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Date: July 20, 2017
Time: 9:00 a.m.
Crm: F, 15th Floor
Judge: Hon. Jacqueline Scott Corley

Trial Date: October 2, 2017

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on July 20, 2017, at 9:00 a.m., or as soon thereafter as the matter may be heard, in the United States District Court for the Northern District of California, San Francisco Courthouse, located at 450 Golden Gate Avenue, San Francisco, CA, in Courtroom 8 before the Honorable Jacqueline Scott Corley, Defendants Uber Technologies, Inc., and Ottomotto LLC (“Uber”) will, and hereby do, jointly move the Court, for an order granting the relief sought in its motion for reconsideration of the Court’s June 5, 2017 Order Denying In Part Administrative Motions to File Under Seal (“Order”), Docket No. 550. Specifically, Uber seeks an order:

1. Sealing portions of pages 12-13 of Exhibit 10 to the Schmidt Declaration (Dkt. 444-6) containing personal addresses, telephone numbers, and email addresses of Anthony Levandowski and Lior Ron (Yang Ex. 1 at 12-13 ¶¶ 3.8(b)-(e)); and

2. Sealing portions of pages 8-9 of Exhibit 10 to the Schmidt Declaration (Dkt. 444-6) containing financial and timing terms for which the Court granted sealing in the draft Term Sheet (*Id.* at 8 ¶ 2.3(a) (timing terms); 8-9 ¶¶ 2.5(a)-(b) (financial terms)). (See Dkt. 550 at 3).

For the Court's convenience, Uber has marked the portions subject to this motion in Exhibit 1 to the Declaration of Michelle Yang.

Uber's motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and the Declaration of Michelle ("Yang Declaration"), any matters of which this Court may take judicial notice, and on such other written and oral argument as may be presented to the Court.

Dated: June 12, 2017

MORRISON & FOERSTER LLP

By: /s/ Arturo J. González
ARTURO J. GONZÁLEZ

Attorneys for Defendants
UBER TECHNOLOGIES, INC.
and OTTOMOTTO LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Uber respectfully requests an order sealing certain personal information and financial and
 3 timing terms it has identified in portions of one document. Uber's request is narrow. It
 4 encompasses only the following confidential information in Exhibit 10 to the Schmidt
 5 Declaration, an "Indemnification Agreement" ("Exhibit 10"), filed as Dkt. No. 444-6: (1) portions
 6 on pages 12-13 containing personal information of Anthony Levandowski and Lior Ron (Yang
 7 Ex. 1 at 12-13 ¶¶ 3.8(b)-(e)); and (2) portions of pages 8-9 containing financial and timing terms
 8 for which the Court granted sealing in draft form in Exhibit C to the Term Sheet (*Id.* at 8 ¶ 2.3(a)
 9 (timing terms); 8-9 ¶¶ 2.5(a)-(b) (financial terms)).¹

10 The Ninth Circuit has explained that "[a] 'good cause' showing under Rule 26(c) will
 11 suffice to keep sealed records attached to non-dispositive motions." *Kamakana v. City of Cnty. of*
 12 *Honolulu*, 477 F.3d 1172, 1180 (9th Cir. 2009). In particular, good cause has been found to keep
 13 sealed confidential personal information such as addresses. *See id.* at 1184 (affirming magistrate
 14 judge's sealing of home address that "could expose the officers and their families to harm or
 15 identity theft"); *Sullivan v. Prudential Ins. Co. of Am.*, No. 2:12-cv-01173, 2012 WL 3763904
 16 (E.D.Cal. Aug. 29, 2012) (granting motion to seal documents "replete with confidential personal
 17 information, including Plaintiff's financial information, Social Security number, address, birth
 18 date, and medical history").

19 The marked portions on pages 12-13 of Exhibit 10 contain the personal addresses,
 20 telephone numbers, and email addresses of Anthony Levandowski and Lior Ron. This case has
 21 been the subject of much public and media interest, and disclosure of this personal information
 22 could harm the privacy interests of these individuals and their families. (Yang Decl. ¶ 4.) For
 23 example, if these personal addresses and contact information were disclosed publicly, Messrs.
 24 Levandowski and Ron and their families could be exposed to harm or identity theft. (*Id.*) Good
 25 exist exists to seal this personal information. *See Kamakana*, 477 F.3d at 1184.

26 ¹ Uber met and conferred with Waymo about this motion for reconsideration on June 12,
 27 2017. Waymo indicated that it did not oppose the sealing of Messrs. Levandowski and Ron's
 28 personal information or the timing terms, but it opposed sealing of the financial terms. (Yang
 Decl. ¶ 5.)

1 The marked portions on pages 8-9 of Exhibit 10 contain confidential financial and highly
2 confidential timing terms to the Indemnification Agreement for which the Court granted sealing
3 in draft form. (*Compare* Yang Ex. 1 at 8 ¶ 2.3(a) (timing terms); 8-9 ¶¶ 2.5(a)-(b) (financial
4 terms), *with* Dkt. 444-5 at 51 (Exhibit C to Term Sheet).) In the June 5, 2017 Order, the Court
5 granted sealing of Exhibit C to the Term Sheet with respect to (1) the “indented paragraph on
6 page 2 beginning with ‘If the Closing occurs . . .’ and (2) “the timing referenced in the last
7 paragraph on the same page.” (Dkt. 550 at 3.) The Court had found that this confidential
8 business information merited sealing. The marked portions on pages 8-9 likewise contain
9 confidential business information that could be used by competitors to Uber’s detriment,
10 including in the context of negotiating deals. (Yang Decl. ¶ 3.) If this information were
11 disclosed, for example, competitors could obtain a competitive advantage by offering better terms
12 than Uber, such that Uber’s competitive standing would be harmed. (*Id.*) Good cause therefore
13 exists to seal these narrow portions of the Indemnification Agreement.

14 For the foregoing reasons, Uber respectfully requests that the Court grant its motion for
15 reconsideration and grant the sealing of: (1) the identified portions on pages 12-13 of Exhibit 10
16 containing personal information of Messrs. Levandowski and Ron; and (2) the identified portions
17 of pages 8-9 of Exhibit 10 containing financial and timing terms.

18 Dated: June 12, 2017

MORRISON & FOERSTER LLP

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20 By: /s/ Arturo J. González
ARTURO J. GONZÁLEZ

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22 Attorneys for Defendants
UBER TECHNOLOGIES, INC.
and OTTOMOTTO LLC

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